REMARKS

Reconsideration of the rejections set forth in the Office Action mailed January 30, 2004, is respectfully requested. Claims 1-5 and 7-11 remain pending. Claims 1 and 8 have been amended by including the limitation of dependent claim 6, which has been canceled. Therefore, this amendment was made without the addition of new matter.

Information Disclosure Statement

The examiner has indicated that the list of references in the specification is not a proper information disclosure statement. Therefore, applicant has added listed the references cited in the specification, along with others, in the accompanying Information Disclosure Statement.

Drawings

The examiner has indicated that a petition must be filed in order for color drawings to be accepted. Applicant has submitted substitute formal drawings, which contain black and white copies of the color drawings.

Art Rejections

Claims 1-7 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Milder et al. (U.S. Patent No. 5,116,305) in view of Fischi (U.S. Patent No. 6,468,200). Claims 8-11 were rejected over Milder et al. in view of Manning (U.S. Patent No. 5,216,032) or Paradia (U.S. Patent No. 5,334,142).

Applicants have amended claims 1 and 8 to specify that the length is "approximately 3–6 cm." Applicants respectfully assert that Milder et al. teaches that the length of the balloon "from tip

to tail, preferably is approximately 100 mm [10 cm]." (Col. 5, lines 12-13). Milder et al. describes an intra aortic balloon used with intra aortic balloon pumps ("IABPs"). The length of 10 cm is designed to provide sufficient volume displacement, a critical feature for IABP. In contrast, the amended claims specify that the length of the balloon is approximately 3-6 cm. The claimed devices are used to at least partially block the aorta to increase cerebral blood flow, not to achieve volume displacement as in IABP. The claimed balloon length is an important feature to achieve stability against blood flow in the aorta. Moreover, the shorter length is desirable over the longer length of 10 cm described in Milder et al. so that the balloon will not block any vessel that branches from the aorta, e.g., renal, spinal, subclavian, left common carotid, and the brachiocephalic artery. Thus, Milder would plainly be inapplicable to the claimed invention because Milder's 10 cm balloon would block vessels that branch from the aorta. A person skilled in the art would have rejected the Milder device as a potential solution to the important problem solved by applicant's invention.

If the Examiner has any questions regarding this communication, or feels that an interview might facilitate prosecution of the application, she is invited to contact the undersigned at (949) 737-2900.

Respectfully submitted,
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